

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20611
Conference Calendar

ERVIN EUGENE MATHIS,

Petitioner-Appellant,

versus

BOARD OF PARDON AND PAROLE,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-97-CV-2586
- - - - -

February 10, 1999

Before BARKSDALE and EMILIO M. GARZA, Circuit Judges.*

PER CURIAM:**

Ervin Eugene Mathis, Texas prisoner # 795234, moves in this court for a certificate of appealability ("COA") to appeal the district court's dismissal with prejudice of his 42 U.S.C. § 1983 civil rights action. Because the appeal is from an order dismissing a § 1983 suit, a COA is DENIED AS UNNECESSARY. See 28 U.S.C. § 2253(c).

The district court did not abuse its discretion by sua

*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

** Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

sponte dismissing Mathis's suit filed in forma pauperis as barred by the statute of limitations. See Moore v. McDonald, 30 F.3d 616, 620 (5th Cir. 1994); 28 U.S.C. § 1915(e)(2)(B)(i). Mathis's cause of action for the unconstitutional revocation of his parole accrued when that revocation was invalidated by the Texas Court of Criminal Appeals on May 31, 1995. See Heck v. Humphrey, 512 U.S. 477, 489-90 (1994); Ex parte Mathis, 899 S.W.2d 203, 203 (Tex. Crim. App. 1995). His complaint, filed on July 28, 1997, was not filed within two years of when his cause of action accrued and, thus, was barred by the statute of limitations.

COA DENIED AS UNNECESSARY; AFFIRMED.